

REMARKS

Claims 1, 12, and 20 have been amended. Claim 9 has been cancelled. Claims 1, 3-10, 12-16, and 20 are currently pending in the application.

Claims 1, 3-10, 12-16, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,907,239 (Walker).

Currently amended independent claims 1, 12, and 20 recite, "receiving from the customer a proposal for a travel product" and "providing other members with information about the proposed travel product as one of the paid services. The above-identified features of the present invention were initially recited in original claim 9.

In the Office Action, the Examiner rejected claim 9 as being "well known in the art for the insurance agents or travel agents." Applicants respectfully submit that the Examiner is taking Official Notice without documentary evidence.

Applicants respectfully traverse the Examiner's statement and request that the Examiner produce authority for the statement. Applicants specifically point out the following errors in the Examiner's action.

First, the Examiner uses common knowledge as the principal evidence for the rejection. As explained in M.P.E.P. § 2144.03(E):

any facts so noticed should . . . serve only to 'fill in the gaps' in an insubstantial manner which might exist in the evidentiary showing made by the Examiner to support a particular ground of rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based.

Second, the noticed feature is not considered to be common knowledge or well-known in the art. In this case, the feature is not of notorious character or capable of instant and unquestionable demonstration as being well-known. Instead, the feature is unique to the present invention. See M.P.E.P. § 2144.03(A) ("the notice of facts beyond the record which may be taken by the Examiner must be "capable of such instant and unquestionable demonstration as to defy dispute").

Third, there is no evidence supporting the Examiner's assertion. See M.P.E.P. § 2144.03(B) ("there must be some form of evidence in the record to support an assertion of common knowledge").

Fourth, if the Examiner is basing the rejection, at least in part, on personal knowledge, the Examiner is required under 37 C.F.R. § 1.104(d)(2) to support such an assertion with an

affidavit when requested by Applicants. Thus, Applicants request the Examiner to support such assertion with an affidavit.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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